

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Aharon Cohen,
individually and on behalf of all others similarly situated,
Plaintiff,

-v.-

FrontLine Asset Strategies, LLC;
LVNV Funding, LLC;
and John Does 1-25.

Defendants.

Case No.: 1:20-cv-05144

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Aharon Cohen (hereinafter, “Plaintiff”) brings this Class Action Complaint by and through his attorneys, Stein Saks, PLLC, against Defendants FrontLine Asset Strategies, LLC (“FrontLine”) and LVNV Funding, LLC (“LVNV”), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff’s counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff’s personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

1. The Fair Debt Collection Practices Act (“FDCPA”) was enacted in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. §1692(a). At that time, Congress was concerned that "abusive debt collection practices contribute to the number of personal bankruptcies, to material instability, to the loss of jobs, and to invasions of individual privacy." *Id.* the Act concluded that "existing laws...[we]re inadequate to protect consumers," and that "'the effective collection of debts" does

not require "misrepresentation or other abusive debt collection practices." 15 U.S.C. §§ 1692(b) & (c).

2. The purpose of the Act was not only to eliminate abusive debt collection practices, but also to ensure "that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged." *Id.* § 1692(e). After determining that the existing consumer protection laws were inadequate, *Id.* § 1692(b), consumers were given a private cause of action against debt collectors who fail to comply with the Act. § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692 et. seq. The Court also has pendant jurisdiction over the State law claims, if any, in this action pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) as this is where the Plaintiff resides as well as a substantial part of the events or omissions giving rise to the claim occurred.

NATURE OF THE ACTION

5. Plaintiff brings this class action on behalf of a class of New York consumers under § 1692 et seq. of Title 15 of the United States Code, also known as the Fair Debt Collections Practices Act ("FDCPA"), and

6. Plaintiff is seeking damages and declaratory relief.

PARTIES

7. Plaintiff is a resident of the State of New York, County of Queens, residing at 104-60 Queens Blvd, Forest Hills, NY, 11375.

8. Defendant FrontLine is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 2700 Snelling Ave. N., Ste. 250, Roseville, MN 55113.

9. Upon information and belief, Defendant FrontLine is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

10. Defendant LVNV is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 55 Beattie Pl, Greenville, SC 29601.

11. Upon information and belief, Defendant LVNV is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due to itself or another.

12. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ALLEGATIONS

13. Plaintiff brings this claim on behalf of the following case, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

14. The Class consists of:

- a. all individuals with addresses in the State of New York;
- b. to whom Defendant FrontLine sent a collection letter;
- c. on behalf of Defendant LVNV;
- d. attempting to collect a consumer debt;

- e. that provides conflicting amounts for the charged-off debt and current amount due;
- f. without explanation of the difference;
- g. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before a date twenty-one (21) days after the filing of this action.

15. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

16. Excluded from the Plaintiff Class are the Defendants and all officers, members, partners, managers, directors and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action, and all members of their immediate families.

17. There are questions of law and fact common to the Plaintiff Class, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendants' written communication to consumers, in the forms attached as Exhibit A, violate 15 U.S.C. §§ 1692e, 1692f and 1692g.

18. The Plaintiff's claims are typical of the class members, as all are based upon the same facts and legal theories. The Plaintiff will fairly and adequately protect the interests of the Plaintiff Class defined in this complaint. The Plaintiff has retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiff nor his attorneys have any interests, which might cause them not to vigorously pursue this action.

19. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:

- a. **Numerosity:** The Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff Class defined above is so numerous that joinder of all members would be impractical.
- b. **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Class and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' written communication to consumers, in the form attached as Exhibit A, violate 15 U.S.C. §§ 1692e, 1692f, and 1692g.
- c. **Typicality:** The Plaintiff's claims are typical of the claims of the class members. The Plaintiff and all members of the Plaintiff Class have claims arising out of the Defendants' common uniform course of conduct complained of herein.
- d. **Adequacy:** The Plaintiff will fairly and adequately protect the interests of the class members insofar as Plaintiff has no interests that are adverse to the absent class members. Plaintiff is committed to vigorously litigating this matter. Plaintiff has also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiff nor counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.

- e. **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

20. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the Plaintiff Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

21. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify a class(es) only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

FACTUAL ALLEGATIONS

22. Plaintiff repeats the above allegations as if set forth here.

23. Some time prior to January 17, 2020, an obligation was allegedly incurred to Citibank, N.A. ("Citibank").

24. The obligation arose out of a transaction in which money, property, insurance or services, of which the subject transactions, were incurred for personal purposes, specifically a Citibank personal credit card.

25. The alleged Citibank obligation is a "debt" as defined by 15 U.S.C. § 1692a (5).

26. Citibank is a "creditor" as defined by 15 U.S.C. § 1692a (4).

27. Upon information and belief, Citibank sold or assigned the alleged debt to Defendant LVNV.

28. Defendant LVNV collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

29. Upon information and belief, LVNV contracted with Defendant FrontLine to collect the alleged debt.

30. Defendant FrontLine collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

January 17, 2020 Collection Letter

31. On or about January 17, 2020, Defendant Frontline, on behalf of Defendant LVNV, sent the Plaintiff a collection letter regarding the alleged debt, originally owed to Citibank and now owed to LVNV. See Letter attached as **Exhibit A**.

32. The collection letter states:

Total Due as of Charge-off: \$5971.57
Total Interest Accrued Since Charge-off: \$0.00
Total non-Interest Charges or Fee Accrued Since Charge-off: \$0.00
Total Paid on Debt Since Charge-off: \$0.00
Total Due: \$5876.23

33. The letter lists the “Total Due as of Charge-off” as \$5971.57.

34. The letter then lists potential categories of additions to that amount. However, the amount listed for each category is \$0.00.

35. The letter then states that the “Total Due” is \$5876.23.

36. Defendants failed to provide a basis for Plaintiff to determine what caused the discrepancy between the charge-off amount and the amount currently alleged as due.

37. Plaintiff is therefore unable to evaluate how much the actual debt being collected is for or how it has changed.

38. Plaintiff is unable to determine why the amount being demanded changed from the amount of the debt due at charge off.

39. If in fact that balance changed due to mistakes, payments, or interest or fees chargebacks, it is deceptive to state a zero in those columns.

40. Because of the conflicting amounts listed, the letter also fails to clearly state the amount of the debt.

41. As a result of Defendants' deceptive, misleading and false debt collection practices, Plaintiff has been damaged.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §1692e *et seq.*

42. Plaintiff repeats the above allegations as if set forth here.

43. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to, 15 U.S.C. § 1692e.

44. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

45. Defendants violated said section by:

- a. Making a false and misleading representation in violation of §1692e (10) by providing conflicting amounts for the alleged debt;

- b. Falsely representing the character, amount or legal status of the debt in violation of §1692e (2).

46. By reason thereof, Defendants are liable to Plaintiff for judgment that Defendants' conduct violated Section 1692e, *et seq.* of the FDCPA and Plaintiff is entitled to actual damages, statutory damages, costs and attorneys' fees.

COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §1692f *et seq.*

47. Plaintiff repeats the above allegations as if set forth here.

48. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to, 15 U.S.C. § 1692f.

49. Pursuant to 15 U.S.C. §1692f, a debt collector may not use any unfair or unconscionable means in connection with the collection of any debt.

50. Defendants violated this section by:

- a. unfairly changing the demanded amount without providing an explanation of the claimed change to the original amount of the debt;
- b. by adding charges to the original amount of the debt that are not permitted by contract or law and that were in fact later removed.

51. By reason thereof, Defendant are liable to Plaintiff for judgment that Defendants' conduct violated Section 1692f, *et seq.* of the FDCPA and Plaintiff is entitled to actual damages, statutory damages, costs and attorneys' fees.

COUNT III
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §1692g *et seq.*

52. Plaintiff repeats the above allegations as if set forth here.

53. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692g.

54. Pursuant to 15 USC §1692g:

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing –

1. The amount of the debt; ...

55. Defendants violated 15 U.S.C. §1692g (a)(1) by failing to clearly identify the amount of the debt.

56. By reason thereof, Defendants are liable to Plaintiff for judgment that Defendants' conduct violated Section 1692g et seq. of the FDCPA, and Plaintiff is entitled to actual damages, statutory damages, costs and attorneys' fees.

DEMAND FOR TRIAL BY JURY

57. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Aharon Cohen, individually and on behalf of all others similarly situated, demands judgment from Defendants FrontLine and LVNV as follows:

- a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Eliyahu Babad, Esq. as Class Counsel;
- b) Awarding Plaintiff and the Class statutory damages;
- c) Awarding Plaintiff and the Class actual damages;

- d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
- e) Awarding pre-judgment interest and post-judgment interest; and
- f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: October 26, 2020

Respectfully submitted,

Stein Saks PLLC

/s/ Eliyahu Babad

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